

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

MATTHEW KATONA, :

Petitioner : **CIVIL ACTION NO. 3:19-2135**

v. : **(JUDGE MANNION)**

WARDEN KEVIN RANSOM and :
PA STATE ATTORNEY
GENERAL, :

Respondents :

ORDER

Pending before the court is the report of Magistrate Judge Karoline Mehalchick, which recommends that the petition for writ of habeas corpus filed in the above-captioned matter be dismissed with prejudice as untimely. (Doc. 6). No objections have been filed to the report and recommendation. Upon review, the report will be adopted in its entirety.

By way of relevant background, the petitioner filed the instant action challenging his 2010 conviction and sentence in the Court of Common Pleas of Monroe County for robbery and aggravated assault with a deadly weapon. (Doc. 1). Judge Mehalchick initially screened the petition pursuant to Rule 4 of the Rules Governing Section 2254 Cases, 28 U.S.C. foll. §2254, and issued an order to show cause why the petition should not be dismissed as

untimely under the provisions of 28 U.S.C. §2244(d). (Doc. 5). The petitioner failed to respond to the show cause order. As a result, Judge Mehalchick issued the instant report recommending dismissal of the petition as untimely under the provisions of §2244(d). (Doc. 6). The petitioner has failed to file objections to the report and recommendation.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b), advisory committee notes; see also Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

Upon review of Judge Mehalchick’s report and recommendation, the court finds no clear error of record. Moreover, the court agrees with the sound reasoning which led Judge Mehalchick to her conclusions. As such, the court will adopt the report and recommendation in its entirety.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- (1)** The report and recommendation of Judge Mehalchick (**Doc. 6**) is **ADOPTED IN ITS ENTIRETY** as the decision of the court.
- (2)** The petition for writ of habeas corpus (**Doc. 1**) is **DISMISSED WITH PREJUDICE** as untimely pursuant to the provisions of 28 U.S.C. §2244(d).
- (3)** A certificate of appealability **SHALL NOT ISSUE** as the petitioner has failed to demonstrate “a substantial showing of the denial of a constitutional right.” 28 U.S.C. §2253(c)(2)
- (4)** The Clerk of Court is directed to **CLOSE THIS CASE.**

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

DATE: November 13, 2020

19-2135-01